

103^D CONGRESS
2^D SESSION

H. R. 4760

To implement the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993.

IN THE HOUSE OF REPRESENTATIVES

JULY 14, 1994

Mr. STUDDS (for himself and Mr. MANTON) (both by request) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To implement the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “High Seas Fisheries
5 Licensing Act of 1994”.

6 **SEC. 2. PURPOSE.**

7 It is the purpose of this Act—

1 (1) to implement the Agreement to Promote
2 Compliance with International Conservation and
3 Management Measures by Fishing Vessels on the
4 High Seas, adopted by the Conference of the Food
5 and Agriculture Organization of the United Nations
6 on November 24, 1993; and

7 (2) to establish a system of licensing, reporting,
8 and regulation for vessels of the United States fish-
9 ing on the high seas.

10 **SEC. 3. DEFINITIONS.**

11 As used in this Act, the term—

12 (1) “Agreement” means the Agreement to Pro-
13 mote Compliance with International Conservation
14 and Management Measures by Fishing Vessels on
15 the High Seas, adopted by the Conference of the
16 Food and Agriculture Organization of the United
17 Nations on November 24, 1993;

18 (2) “FAO” means the Food and Agriculture
19 Organization of the United Nations;

20 (3) “high seas” means the waters beyond the
21 territorial sea or exclusive economic zone (or the
22 equivalent) of any nation, to the extent that such
23 territorial sea or exclusive economic zone (or the
24 equivalent) is recognized by the United States;

1 (4) “high seas fishing vessel” means any vessel
2 of the United States used or intended for use—

3 (A) on the high seas;

4 (B) for the purpose of the commercial ex-
5 ploitation of living marine resources; and

6 (C) as a harvesting vessel, as a mother
7 ship, or as any other support vessel directly en-
8 gaged in a fishing operation;

9 (5) “international conservation and manage-
10 ment measures” means measures to conserve or
11 manage one or more species of living marine re-
12 sources that are adopted and applied in accordance
13 with the relevant rules of international law as re-
14 flected in the 1982 United Nations Convention on
15 the Law of the Sea—such measures may be adopted
16 either by global, regional, or subregional fisheries or-
17 ganizations, subject to the rights and obligations of
18 their members, or by treaties or other international
19 agreements;

20 (6) “length” means—

21 (A) for any fishing vessel built after July
22 18, 1982, 96 percent of the total length on a
23 waterline at 85 percent of the least molded
24 depth measured from the top of the keel, or the
25 length from the foreside of the stem to the axis

1 of the rudder stock on that waterline, if that be
2 greater. In ships designed with a rake of keel
3 the waterline on which this length is measured
4 shall be parallel to the designed waterline; and

5 (B) for any fishing vessel built before July
6 18, 1982, registered length as entered on the
7 vessel's documentation;

8 (7) "person" means any individual (whether or
9 not a citizen of or national of the United States),
10 any corporation, partnership, association, or other
11 entity (whether or not organized or existing under
12 the laws of any State), and any Federal, State, local,
13 or foreign government or any entity of any such gov-
14 ernment;

15 (8) "Secretary" means the Secretary of Com-
16 merce or a designee;

17 (9) "vessel of the United States" means—

18 (A) a vessel documented under chapter
19 121 of title 46 or numbered in accordance with
20 chapter 123 of title 46;

21 (B) a vessel owned in whole or part by—

22 (i) the United States or a territory,
23 commonwealth, or possession of the United
24 States;

1 (ii) a State or political subdivision
2 thereof;

3 (iii) a citizen or national of the United
4 States; or

5 (iv) a corporation created under the
6 laws of the United States or any State, the
7 District of Columbia, or any territory,
8 commonwealth, or possession of the United
9 States; unless the vessel has been granted
10 the nationality of a foreign nation in ac-
11 cordance with article 92 of the 1982 Unit-
12 ed Nations Convention on the Law of the
13 Sea and a claim of nationality or registry
14 for the vessel is made by the master or in-
15 dividual in charge at the time of the en-
16 forcement action by an officer or employee
17 of the United States authorized to enforce
18 applicable provisions of the United States
19 law; and

20 (v) a vessel that was once documented
21 under the laws of the United States and,
22 in violation of the laws of the United
23 States, was either sold to a person not a
24 citizen of the United States or placed
25 under foreign registry or a foreign flag,

1 whether or not the vessel has been granted
2 the nationality of a foreign nation; and
3 (10) “vessel subject to the jurisdiction of the
4 United States” and “vessel without nationality”
5 have the same meaning as in 46 U.S.C. App.
6 1903(c).

7 **SEC. 4. LICENSING.**

8 (a) GENERAL.—No high seas fishing vessel shall en-
9 gage in harvesting operations on the high seas, unless the
10 vessel has on board a valid license issued under this sec-
11 tion.

12 (b) ELIGIBILITY.—(1) Any vessel of the United
13 States is eligible to receive a license under this section,
14 unless the vessel was previously authorized to be used for
15 fishing on the high seas by a foreign nation, and

16 (A) the foreign nation suspended such author-
17 ization because the vessel undermined the effective-
18 ness of international conservation and management
19 measures, which suspension has not expired; or

20 (B) the foreign nation, within the last three
21 years preceding application for a license under this
22 section, withdrew such authorization because the
23 vessel undermined the effectiveness of international
24 conservation and management measures.

1 (2) The restriction in paragraph (1) does not apply
2 where ownership of the vessel has changed since the vessel
3 undermined the effectiveness of international conservation
4 and management measures, and the new owner has pro-
5 vided sufficient evidence to the Secretary demonstrating
6 that the previous owner or operator has no further legal,
7 beneficial, or financial interest in, or control of, the vessel.

8 (3) The restriction in paragraph (1) does not apply
9 where the Secretary makes a determination that issuing
10 a license would not subvert the purposes of the Agreement.

11 (4) The Secretary will not issue a license to a vessel
12 unless he or she is satisfied that the United States will
13 be able to exercise effectively its responsibilities under the
14 Agreement with respect to that vessel.

15 (c) APPLICATION.—(1) The owner or operator of a
16 high seas fishing vessel may apply for a license under this
17 section by completing an application form prescribed by
18 the Secretary.

19 (2) The application form shall contain—

20 (A) the vessel's name, previous names (if
21 known), official numbers, and port of record;

22 (B) previous flag (if any);

23 (C) international radio call sign (if any);

24 (D) names and addresses of owners and opera-
25 tors;

1 (E) where and when built;

2 (F) type of vessel;

3 (G) length; and

4 (H) any other information the Secretary re-
5 quires.

6 (d) CONDITIONS.—The Secretary shall establish such
7 conditions and restrictions on each license issued under
8 this section as are necessary and appropriate to carry out
9 the obligations of the United States under the Agreement,
10 including but not limited to the following:

11 (1) The vessel shall be marked in accordance
12 with the FAO Standard Specifications for the Mark-
13 ing and Identification of Fishing Vessels, or with
14 regulations issued under section 1885 of title 16,
15 United States Code;

16 (2) The license holder shall report such infor-
17 mation as the Secretary by regulation requires, in-
18 cluding area of fishing operations and catch statis-
19 tics. The Secretary shall promulgate regulations con-
20 cerning conditions under which information submit-
21 ted under this subsection may be released.

22 (e) FEES.—(1) The Secretary may by regulation es-
23 tablish the level of fees to be charged for licenses issued
24 under this section. The licensing fee shall be in addition

1 to any fee required under any regional licensing regime
2 applicable to high seas fishing vessels.

3 (2) The fees authorized in subsection (e)(1) shall be
4 collected, credited to the Operations, Research and Facili-
5 ties appropriation, and available until expended for the
6 purpose of implementing this Act, only to the extent and
7 in the amounts provided in advance in appropriations
8 Acts.

9 (f) DURATION.—A license issued under this section
10 is valid for the period specified in regulations issued under
11 section 5(d). A license issued under this section is void
12 in the event the vessel is no longer eligible for United
13 States documentation, such documentation is revoked or
14 denied, or the vessel is deleted from such documentation.

15 **SEC. 5. RESPONSIBILITIES OF THE SECRETARY**

16 (a) RECORD.—The Secretary shall maintain an auto-
17 mated file or record of high seas fishing vessels issued li-
18 censes under section 4, including all information submit-
19 ted under section 4(c)(2).

20 (b) INFORMATION TO FAO.—The Secretary, in co-
21 operation with the Secretaries of State and Transpor-
22 tation, shall—

23 (1) make available to FAO information con-
24 tained in the record maintained under paragraph
25 (a);

1 (2) promptly notify FAO of changes in such in-
2 formation;

3 (3) promptly notify FAO of additions to or de-
4 letions from the record, and the reason for any dele-
5 tion;

6 (4) convey to FAO information relating to any
7 license granted under section 4(b)(3), including the
8 vessel's identity, owner or operator, and factors rel-
9 evant to the Secretary's determination to issue the
10 license;

11 (5) report promptly to FAO all relevant infor-
12 mation regarding any activities of high seas fishing
13 vessels that undermine the effectiveness of inter-
14 national conservation and management measures, in-
15 cluding the identity of the vessels and sanctions im-
16 posed; and

17 (6) provide the FAO a summary of evidence re-
18 garding any activities of foreign vessels that under-
19 mine the effectiveness of international conservation
20 and management measures.

21 (c) INFORMATION TO FLAG STATES.—The Secretary,
22 in cooperation with the Secretary of State and the Sec-
23 retary of Transportation, shall, where he or she has rea-
24 sonable grounds to believe that a foreign fishing vessel has

1 engaged in activities undermining the effectiveness of
2 international conservation and management measures—

3 (1) provide to the flag State information, in-
4 cluding appropriate evidentiary material, relating to
5 those activities; and

6 (2) when such foreign fishing vessel is volun-
7 tarily in a United States port, the Secretary shall
8 promptly notify the flag State. If requested by the
9 flag State, the Secretary shall make arrangements to
10 undertake such lawful investigatory measures as
11 may be considered necessary to establish whether
12 the fishing vessel has been used contrary to the pro-
13 visions of the Agreement.

14 (d) REGULATIONS.—The Secretary, after consulta-
15 tion with the Secretary of State and the Secretary of
16 Transportation, may promulgate such regulations, in ac-
17 cordance with section 553 of title 5, United States Code,
18 as may be necessary to carry out the purposes of the
19 Agreement and this Act. The Secretary shall coordinate
20 such regulations with any other entities regulating high
21 seas fishing vessels, to minimize duplication of license ap-
22 plication and reporting requirements. To the extent prac-
23 ticable, such regulations shall also be consistent with regu-
24 lations implementing fishery management plans under the

1 Magnuson Fishery Conservation and Management Act (16
2 U.S.C. 1801 et seq.).

3 (e) NOTICE OF INTERNATIONAL CONSERVATION AND
4 MANAGEMENT MEASURES.—The Secretary, in consulta-
5 tion with the Secretary of State, shall publish in the Fed-
6 eral Register, from time to time, a notice listing inter-
7 national conservation and management measures recog-
8 nized by the United States.

9 **SEC. 6. UNLAWFUL ACTIVITIES.**

10 It is unlawful for any person subject to the jurisdic-
11 tion of the United States—

12 (a) to use a high seas fishing vessel on the high
13 seas in contravention of international conservation
14 and management measures recognized by the United
15 States;

16 (b) to use a high seas fishing vessel on the high
17 seas, unless the vessel has on board a valid license
18 issued under section 4;

19 (c) to use a high seas fishing vessel in violation
20 of the conditions or restrictions of a license issued
21 under section 4;

22 (d) to falsify any information required to be re-
23 ported, communicated, or recorded pursuant to this
24 Act or any regulation issued under this Act, or to
25 fail to submit in a timely fashion any required infor-

1 mation, or to fail to report to the Secretary imme-
2 diately any change in circumstances that has the ef-
3 fect of rendering any such information false, incom-
4 plete, or misleading;

5 (e) to refuse to permit an authorized officer to
6 board a fishing vessel subject to such person's con-
7 trol for purposes of conducting any search or inspec-
8 tion in connection with the enforcement of this Act
9 or any regulation issued under this Act;

10 (f) to forcibly assault, resist, oppose, impede,
11 intimidate, or interfere with an authorized officer in
12 the conduct of any search or inspection described in
13 paragraph (e);

14 (g) to resist a lawful arrest or detention for any
15 act prohibited by this section;

16 (h) to interfere with, delay, or prevent, by any
17 means, the apprehension, arrest, or detection of an-
18 other person, knowing that such person has commit-
19 ted any act prohibited by this section;

20 (i) to ship, transport, offer for sale, sell, pur-
21 chase, import, export, or have custody, control, or
22 possession of, any living marine resource taken or
23 retained in violation of this Act or any regulation or
24 license issued under this Act; or

1 (j) to violate any provision of this Act or any
2 regulation or license issued under this Act.

3 **SEC. 7. ENFORCEMENT PROVISIONS.**

4 (a) DUTIES OF SECRETARIES OF COMMERCE AND
5 TRANSPORTATION.—This Act shall be enforced by the
6 Secretary of Commerce and the Secretary of Transpor-
7 tation. Such Secretaries may by agreement utilize, on a
8 reimbursable basis or otherwise, the personnel, services,
9 equipment (including aircraft and vessels), and facilities
10 of any other Federal agency, and of any State agency, in
11 the performance of such duties. Such Secretaries shall,
12 and the head of any Federal or State agency that has en-
13 tered into an agreement with either such Secretary under
14 this section may (if the agreement so provides), authorize
15 officers to enforce the provisions of this Act or any regula-
16 tion or license issued under this Act.

17 (b) DISTRICT COURT JURISDICTION.—The district
18 courts of the United States shall have exclusive jurisdic-
19 tion over any case or controversy arising under the provi-
20 sions of this Act. In the case of Guam, and any Common-
21 wealth, territory, or possession of the United States in the
22 Pacific Ocean, the appropriate court is the United States
23 District Court for the District of Guam, except that in
24 the case of American Samoa, the appropriate court is the
25 United States District Court for the District of Hawaii.

1 (c) POWERS OF ENFORCEMENT OFFICERS.—(1) Any
2 officer who is authorized (by the Secretary, the Secretary
3 of Transportation, or the head of any Federal or State
4 agency that has entered into an agreement with such Sec-
5 retaries under subsection (a) to enforce the provisions of
6 this Act) may—

7 (A) with or without a warrant or other
8 process—

9 (i) arrest any person, if the officer has rea-
10 sonable cause to believe that such person has
11 committed an act prohibited by section 9(a);

12 (ii) board, and search or inspect, any high
13 seas fishing vessel;

14 (iii) seize any high seas fishing vessel (to-
15 gether with its fishing gear, furniture, appur-
16 tenances, stores, and cargo) used or employed
17 in, or with respect to which it reasonably ap-
18 pears that such vessel was used or employed in,
19 the violation of any provision of this Act or any
20 regulation or license issued under this Act;

21 (iv) seize any living marine resource (wher-
22 ever found) taken or retained, in any manner,
23 in connection with or as a result of the commis-
24 sion of any act prohibited by section 6; and

1 (v) seize any other evidence related to any
2 violation of any provision of this Act or any reg-
3 ulation or license issued under this Act;

4 (B) execute any warrant or other process issued
5 by any court of competent jurisdiction; and

6 (C) exercise any other lawful authority.

7 (2) Subject to the direction of the Secretary, a person
8 charged with law enforcement responsibilities by the Sec-
9 retary who is performing a duty related to enforcement
10 of a law regarding fisheries or other marine resources may
11 make an arrest without a warrant for an offense against
12 the United States committed in his presence, or for a fel-
13 ony cognizable under the laws of the United States, if he
14 has reasonable grounds to believe that the person to be
15 arrested has committed or is committing a felony.

16 (d) ISSUANCE OF CITATIONS.—If any authorized offi-
17 cer finds that a fishing vessel is operating or has been
18 operated in violation of any provision of this Act, such offi-
19 cer may issue a citation to the owner or operator of such
20 vessel in lieu of proceeding under subsection (c). If a per-
21 mit has been issued pursuant to this Act for such vessel,
22 such officer shall note the issuance of any citation under
23 this subsection, including the date thereof and the reason
24 therefor, on the permit. The Secretary shall maintain a
25 record of all citations issued pursuant to this subsection.

1 **SEC. 8. CIVIL PENALTIES AND LICENSE SANCTIONS.**

2 (a) CIVIL PENALTIES.—(1) Any person who is found
3 by the Secretary, after notice and opportunity for a hear-
4 ing in accordance with section 554 of title 5, United States
5 Code, to have committed an act prohibited by section 6
6 shall be liable to the United States for a civil penalty. The
7 amount of the civil penalty shall not exceed \$100,000 for
8 each violation. Each day of a continuing violation shall
9 constitute a separate offense. The amount of such civil
10 penalty shall be assessed by the Secretary by written no-
11 tice. In determining the amount of such penalty, the Sec-
12 retary shall take into account the nature, circumstances,
13 extent, and gravity of the prohibited acts committed and,
14 with respect to the violation, the degree of culpability, any
15 history of prior offenses, and such other matters as justice
16 may require.

17 (2) The Secretary may compromise, modify, or remit,
18 with or without conditions, any civil penalty that is subject
19 to imposition or that has been imposed under this section.

20 (b) LICENSE SANCTIONS.—(1) In any case in
21 which—

22 (A) a vessel has been used in the commission
23 of an act prohibited under section 6;

24 (B) the owner or operator of a vessel or any
25 other person who has been issued or has applied for

1 a license under section 4 has acted in violation of
2 section 6; or

3 (C) any amount in settlement of a civil forfeit-
4 ure imposed on a vessel or other property, or any
5 civil penalty or criminal fine imposed on a vessel or
6 owner or operator of a vessel or any other person
7 who has been issued or has applied for a license
8 under any fishery resource statute enforced by the
9 Secretary, has not been paid and is overdue, the
10 Secretary may—

11 (i) revoke any license issued with respect
12 to such vessel or person, with or without preju-
13 dice to the issuance of subsequent licenses;

14 (ii) suspend such license for a period of
15 time considered by the Secretary to be appro-
16 priate;

17 (iii) deny such license; or

18 (iv) impose additional conditions and re-
19 strictions on any license issued to or applied for
20 by such vessel or person under this Act.

21 (2) In imposing a sanction under this paragraph, the
22 Secretary shall take into account—

23 (A) the nature, circumstances, extent, and grav-
24 ity of the prohibited acts for which the sanction is
25 imposed; and

1 (B) with respect to the violator, the degree of
2 culpability, any history of prior offenses, and such
3 other matters as justice may require.

4 (3) Transfer of ownership of a vessel, by sale or oth-
5 erwise, shall not extinguish any license sanction that is
6 in effect or is pending at the time of transfer of ownership.
7 Before executing the transfer of ownership of a vessel, by
8 sale or otherwise, the owner shall disclose in writing to
9 the prospective transferee the existence of any license
10 sanction that will be in effect or pending with respect to
11 the vessel at the time of the transfer. The Secretary may
12 waive or compromise a sanction in the case of a transfer
13 pursuant to court order.

14 (4) In the case of any license that is suspended under
15 this paragraph for nonpayment of a civil penalty or crimi-
16 nal fine, the Secretary shall reinstate the license upon pay-
17 ment of the penalty or fine and interest thereon at the
18 prevailing rate.

19 (5) No sanctions shall be imposed under this para-
20 graph unless there has been prior opportunity for a hear-
21 ing on the facts underlying the violation for which the
22 sanction is imposed, either in conjunction with a civil pen-
23 alty proceeding under this section or otherwise.

24 (c) HEARING.—For the purposes of conducting any
25 hearing under this section, the Secretary may issue sub-

1 poenas for the attendance and testimony of witnesses and
2 the production of relevant papers, books, and documents,
3 and may administer oaths. Witnesses summoned shall be
4 paid the same fees and mileage that are paid to witnesses
5 in the courts of the United States. In case of contempt
6 or refusal to obey a subpoena served upon any person pur-
7 suant to this paragraph, the district court of the United
8 States for any district in which such person is found, re-
9 sides, or transacts business, upon application by the
10 United States and after notice to such person, shall have
11 jurisdiction to issue an order requiring such person to ap-
12 pear and give testimony before the Secretary or to appear
13 and produce documents before the Secretary, or both, and
14 any failure to obey such order of the court may be pun-
15 ished by such court as a contempt thereof.

16 (d) JUDICIAL REVIEW.—Any person against whom a
17 civil penalty is assessed under paragraph (a) or against
18 whose vessel a license sanction is imposed under para-
19 graph (b) (other than a license suspension for nonpayment
20 of penalty or fine) may obtain review thereof in the United
21 States district court for the appropriate district by filing
22 a complaint against the Secretary in such court within
23 thirty days from the date of such order. The Secretary
24 shall promptly file in such court a certified copy of the
25 record upon which such violation was found or such pen-

1 alty imposed, as provided in section 2112 of title 28, Unit-
2 ed States Code. The findings and order of the Secretary
3 shall be set aside by such court if they are not found to
4 be supported by substantial evidence, as provided in sec-
5 tion 706(2) of title 5, United States Code.

6 (e) COLLECTION.—(1) If any person fails to pay an
7 assessment of a civil penalty after it has become a final
8 and unappealable order, or after the appropriate court has
9 entered final judgment in favor of the Secretary, the mat-
10 ter shall be referred to the Attorney General, who shall
11 recover the amount assessed in any appropriate district
12 court of the United States. In such action, the validity
13 and appropriateness of the final order imposing the civil
14 penalty shall not be subject to review.

15 (2) A high seas fishing vessel (including its fishing
16 gear, furniture, appurtenances, stores, and cargo) used in
17 the commission of an act prohibited by section 6 shall be
18 liable in rem for any civil penalty assessed for such viola-
19 tion under paragraph (a) and may be proceeded against
20 in any district court of the United States having jurisdic-
21 tion thereof. Such penalty shall constitute a maritime lien
22 on such vessel that may be recovered in an action in rem
23 in the district court of the United States having jurisdic-
24 tion over the vessel.

1 **SEC. 9. CRIMINAL OFFENSES.**

2 (a) OFFENSES.—A person is guilty of an offense if
3 the person commits any act prohibited by section 6 (f),
4 (g), (h), or (i).

5 (b) PUNISHMENT.—Any offense described in para-
6 graph (a) is a class A misdemeanor punishable by a fine
7 under title 18, United States Code, or imprisonment for
8 not more than one year, or both; except that if in the com-
9 mission of any offense the person uses a dangerous weap-
10 on, engages in conduct that causes bodily injury to any
11 authorized officer, or places any such officer in fear of
12 imminent bodily injury, the offense is a felony punishable
13 by a fine under title 18, United States Code, or imprison-
14 ment for not more than ten years, or both.

15 **SEC. 10. FORFEITURES.**

16 (a) GENERAL.—Any fishing vessel (including its fish-
17 ing gear, furniture, appurtenances, stores, and cargo)
18 used, and any living marine resources (or a fair market
19 value thereof) taken or retained, in any manner, in con-
20 nection with or as a result of the commission of any act
21 prohibited by section 6 shall be subject to forfeiture to
22 the United States. All or part of such vessel may, and
23 all such living marine resources shall, be forfeited to the
24 United States pursuant to a civil proceeding under this
25 section.

1 (b) JURISDICTION OF DISTRICT COURTS.—Any dis-
2 trict court of the United States shall have jurisdiction,
3 upon application of the Attorney General on behalf of the
4 United States, to order any forfeiture authorized under
5 paragraph (a) and any action provided for under para-
6 graph (d).

7 (c) JUDGMENT.—If a judgment is entered for the
8 United States in a civil forfeiture proceeding under this
9 section, the Attorney General may seize any property or
10 other interest declared forfeited to the United States,
11 which has not previously been seized pursuant to this Act
12 or for which security has not previously been obtained.
13 The provisions of the customs laws relating to—

14 (1) the seizure, forfeiture, and condemnation of
15 property for violation of the customs law;

16 (2) the disposition of such property or the pro-
17 ceeds from the sale thereof; and

18 (3) the remission or mitigation of any such for-
19 feiture; shall apply to seizures and forfeitures in-
20 curred, or alleged to have been incurred, under the
21 provisions of this Act, unless such provisions are in-
22 consistent with the purposes, policy, and provisions
23 of this Act.

1 (d) PROCEDURE.—(1) Any officer authorized to serve
2 any process in rem that is issued by a court under section
3 7(b) shall—

4 (A) stay the execution of such process; or

5 (B) discharge any living marine resources
6 seized pursuant to such process;
7 upon receipt of a satisfactory bond or other security from
8 any person claiming such property. Such bond or other
9 security shall be conditioned upon such person delivering
10 such property to the appropriate court upon order thereof,
11 without any impairment of its value, or paying the mone-
12 tary value of such property pursuant to an order of such
13 court. Judgment shall be recoverable on such bond or
14 other security against both the principal and any sureties
15 in the event that any condition thereof is breached, as de-
16 termined by such court.

17 (2) Any living marine resources seized pursuant to
18 this Act may be sold, subject to the approval of the appro-
19 priate court, for not less than the fair market value there-
20 of. The proceeds of any such sale shall be deposited with
21 such court pending the disposition of the matter involved.

22 (e) REBUTTABLE PRESUMPTION.—For purposes of
23 this section, it shall be a rebuttable presumption that all
24 living marine resources found on board a high seas fishing
25 vessel and which are seized in connection with an act pro-

1 hibited by section 6 were taken or retained in violation
2 of this Act.



HR 4760 IH—2